



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FEB - 1 2000

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John T. Sweeney, individually;

Nelson Galvanizing, Inc.
(Attention John T. Sweeney)

Nelson Foundry, Inc.
(Attention John T. Sweeney)

c/o Anthony D. Pistone, Esq.
Suite 205
163-10 Northern Boulevard
Flushing, NY 11358

Re: Nelson Galvanizing Superfund Site, New York City, Queens County, New York:
Request for Information Pursuant to the Comprehensive Environmental Response,
Compensation, and Liability Act, 42 U.S.C. §9601, et seq.

Dear Mr. Sweeney:

The United States Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. §§9601-9675.

EPA has documented the release and threatened release of hazardous substances into the environment at a parcel of property located at 11-02 Broadway, in the Long Island City area of Queens County, New York City, New York (herein referred to as the "Nelson Galvanizing Superfund Site," the "Site" or as "11-02 Broadway.") Hazardous substances have been detected in drums, tanks, other containers and debris at the Site. In response to the release and threatened release of hazardous substances at the Site, EPA has spent public funds and anticipates spending additional public funds. These actions have been and will be taken by EPA pursuant to CERCLA. Enclosed with this letter is the EPA "Action Memorandum" dated September 30, 1999 (the "1999 Action Memorandum") which documents the release and threatened release of



hazardous substances which exists at this time at the Site and which contains a description of the CERCLA response activities which will be conducted to address the current release and threatened release.

In 1991, each of the addressees of this letter was identified by EPA as a potentially responsible party under CERCLA for the release and threatened release of hazardous substances which then existed at the Site and, in 1991, each addressee of this letter entered into an administrative order on consent with EPA to perform a CERCLA removal response action, under EPA oversight, in order to respond to the conditions which existed in 1991.

Potential Liability

Under CERCLA and other laws, responsible parties may be held liable for monies expended by the federal government in taking response actions at and around sites where hazardous substances have been released, including investigative, planning, removal, remedial and enforcement actions. Responsible parties also may be subject to orders requiring them to take response actions themselves. Responsible parties under CERCLA include, among others, the current and past owners or operators of a facility from which there has been a release or threatened release of a hazardous substance.

EPA previously notified John T. Sweeney, individually, Nelson Galvanizing, Inc. and Nelson Foundry, Inc. that each was a potentially responsible party ("PRP") under Section 107(a) of CERCLA, 42 U.S.C. §9607(a) with respect to the "facility" known as the Nelson Galvanizing Superfund Site because each was either the "owner" and/or "operator" of the facility, or that each of them was, at the time of disposal of hazardous substances, the "owner" and/or "operator" of the facility. EPA has determined that there presently exists at the facility, a release or threatened release of a "hazardous substance" which has caused EPA to incur "response" costs.

Accordingly, John T. Sweeney, individually, Nelson Galvanizing, Inc. and Nelson Foundry, Inc. are potentially responsible parties ("PRPs") under Section 107(a) of CERCLA, 42 U.S.C. §9607(a) with respect to the response action which will be taken to address conditions described in the 1999 Action Memorandum.

As used in the previous paragraph, the terms "owner" and "operator" are defined at Section 101(20)(A)(i) and (iii) of CERCLA, 42 U.S.C. § 9601(20)(A)(i) and (iii)); the term "facility" is defined at Section 101(9) of CERCLA, 42 U.S.C. § 9601(9); the term "hazardous substance" is defined at Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); and the term "response" is defined at Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

Based upon EPA's evaluation of conditions at the Site, EPA has decided to undertake a response action in the nature of a "removal" action (as defined in Section 101(23) of CERCLA, 42 U.S.C. § 9601(23)) at the Site. As described in the enclosed 1999 Action Memorandum, the removal action will include, among other things, stabilization, characterization, sampling and disposal of hazardous materials found at the Site. You have advised EPA that you lack the financial resources to perform the response action and EPA anticipates that it will shortly begin removal activities at the Site.

Request for Information

This letter seeks your cooperation in providing information and documents relating to the Site. We encourage you to give this letter your immediate attention. A complete and truthful response to the attached Request for Information should be provided to EPA within twenty-one days of your receipt of this letter.

Under Section 104(e) of CERCLA, 42 USC §9604(e), EPA has broad information-gathering authority which allows EPA to require persons to provide information or documents relating to the materials generated, treated, stored or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup. By letter dated January 29, 1991, EPA requested certain information from Nelson Galvanizing, Inc. and Nelson Foundry, Inc. pursuant to CERCLA § 104(e), 42 USC §9604(e) and pursuant to other statutory authorities, and a response by John T. Sweeney was provided by letter to EPA dated March 22, 1991. A copy of the March 22, 1991 response is enclosed. At this time, and by this letter, EPA is seeking additional information in connection with the conditions at the Site described in the enclosed 1999 Action Memorandum.

While EPA seeks your cooperation in this investigation, your compliance with the Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. §9604, authorizes EPA to pursue penalties for failure to comply with requests for information.

Some of the information EPA is requesting may be considered by you to be confidential business information. Please be aware that you may not withhold the information on that basis. If you wish EPA to treat all or part of the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions included in the attached information request, including the requirement of supporting your claim of confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted to EPA within the time frame noted above.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our information request, it is necessary that you promptly notify EPA.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Sections 3501-3520.

Your response to this Request for Information should be mailed to:

Michael A. Mintzer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region II
290 Broadway, 17th Floor
New York, NY 10007-1866

with a copy to:

Jeff Bechtel
On-Scene Coordinator
Emergency and Remedial Response Division
Removal Action Branch
U.S. Environmental Protection Agency, Region II
2890 Woodbridge Avenue, MS-211
Edison, New Jersey 08837

If you have any questions, or would like to discuss this matter with EPA, you or your attorney may call Michael A. Mintzer of EPA's Office of Regional Counsel at (212) 637-3168 with respect to legal matters, or you may call Jeff Bechtel, EPA's On-scene Coordinator, at (732) 906-6807 for technical information regarding EPA's removal action at the Site.

Sincerely yours,



Janet Conetta
Strategic Integration Manager
Emergency and Remedial Response Division

Attachments
Enclosures

INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

A. Directions

1. A complete and separate response should be given for each question.
2. Identify each answer with the number of the question to which it is addressed.
3. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the question to which it applies.
4. Terms which are defined in the letter from Janet Conetta, to which these "Instructions" are attached, shall have the same meaning in the "Request for Information." All terms not defined in these "Instructions," in the attached "Request for Information" or in the attached letter from Janet Conetta, shall have their ordinary meanings, unless such terms are defined in CERCLA or in its implementing regulations, in which case the statutory or regulatory definitions shall apply.
5. In preparing your response to each question, consult with all present and former employees and agents of your company whom you have reason to believe may be familiar with the matter to which the question pertains.
6. In answering each question, identify each individual and any other source of information (including documents) that was consulted in the preparation of the response to the question.
7. If you are unable to give a detailed and complete answer, or to provide any of the information or documents requested, indicate the reason for your inability to do so.
8. If you have reason to believe that an individual other than one employed by your company may be able to provide additional details or documentation in response to any question, state that person's name, last known address, phone number and the reasons for your belief.
9. If a document is requested but not available, state the reason for its unavailability. To the best of your ability, identify the document by author, date, subject matter, number of pages, and all recipients of the document with their addresses.
10. If a document is requested but not available, state whether you believe that document or a copy thereof is in existence. Provide the name(s) and address(es) of all persons whom you believe to be the current custodian(s) of the document or a copy of the document.
11. If anything is omitted from a document produced in response to this Request for Information, state the reason for and the subject matter of the omission.

12. If you cannot provide a precise answer to a question, please approximate but, in any such instance, state the reason for your inability to be more specific.
13. Whenever this Request for Information requests the identification of a natural person, or other entity, the person or entity's full name and present or last known address also should be provided.
14. You may, if you so desire, assert a business confidentiality claim covering all or part of the information herein requested. The claim may be asserted by placing on (or attaching to) the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary," or "company confidential." Information covered by such a claim will be disclosed by EPA only in accordance with and by means of procedures set forth in Section 104(e)(7) of CERCLA and 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above-cited statutory and regulatory provisions carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.

REQUEST FOR INFORMATION

CORPORATE IDENTITY OF NELSON GALVANIZING, INC. AND NELSON FOUNDRY, INC.

1. With respect to Nelson Galvanizing, Inc.
 - a. If Nelson Galvanizing, Inc. has been dissolved, state the date and circumstances of such corporate dissolution;
 - b. Provide the name(s) and address(es) of each President of Nelson Galvanizing, Inc. from 1991 to the present and, if you contend that no person currently holds the office of President, state the last date on which the most recent President held the office and the circumstances of the termination of that office;
 - c. Provide the name(s) and address(es) of each other officer of Nelson Galvanizing, Inc. from 1991 to the present and, if you contend that the officer positions are currently vacant, state the last date on which each of the officers held the office, and the circumstances of the termination of each office;
 - d. Provide the name(s) and address(es) of all members of the board of directors of Nelson Galvanizing, Inc. from 1991 to the present and, if you contend that there are currently no directors, state the last date on which each of the directors was in office and the circumstances of the termination of such office;
 - e. Provide the name(s) and address(es) of each stockholder of Nelson Galvanizing, Inc. from 1991 to the present, describe each transfer of stock during that period, and, if you contend that there are no current stockholders, state the last date on which there were stockholders and the circumstances of their ceasing to be stockholders;
 - f. If, at any time since 1991, Nelson Galvanizing, Inc. had any subsidiary companies (based upon ownership or control of a substantial portion of the stock ((or other indicia of ownership)) of any other corporation or entity), then identify each such subsidiary; provide its last known address; provide the name of its chief executive officer; and describe the state of facts giving rise to the parent-subsidary relationship; and
 - g. If, at any time since 1991, Nelson Galvanizing, Inc. had any affiliated companies, including Nelson Foundry, Inc. (based upon common directors, common officers, common stockholders or common employees), then identify each such affiliated entity, provide its last known address, provide the name of its chief executive officer; and describe the state of facts giving rise to the affiliation relationship.
2. With respect to Nelson Foundry, Inc.
 - a. If Nelson Foundry, Inc. has been dissolved, state the date and circumstances of such corporate dissolution;
 - b. Provide the name(s) and address(es) of each President of Nelson Foundry, Inc. from 1991 to the present and, if you contend that no person currently holds the office of President, state the last date on which the most recent President held the office and the circumstances of the termination of that office;
 - c. Provide the name(s) and address(es) of each other officer of Nelson Foundry, Inc. from 1991 to the present and, if you contend that the officer positions are

- currently vacant, state the last date on which each of the officers held the office, and the circumstances of the termination of each office;
- d. Provide the name(s) and address(es) of all members of the board of directors of Nelson Foundry, Inc. from 1991 to the present and, if you contend that there are currently no directors, state the last date on which each of the directors was in office, and the circumstances of the termination of such office;
 - e. Provide the name(s) and address(es) of each stockholder of Nelson Foundry, Inc. from 1991 to the present, and describe each transfer of stock during that period and, if you contend that there are no current stockholders, state the last date on which there were stockholders and the circumstances of their ceasing to be stockholders;
 - f. If, at any time since 1991, Nelson Foundry, Inc. had any subsidiary companies (based upon ownership or control of a substantial portion of the stock ((or other indicia of ownership)) of any other corporation or entity), then identify each such subsidiary, provide its last known address, provide the name of its chief executive officer, and describe the state of facts giving rise to the parent-subsidiary relationship; and
 - g. If, at any time since 1991, Nelson Foundry, Inc. had any affiliated companies, including Nelson Galvanizing, Inc. (based upon common directors, common officers, common stockholders or common employees), then identify each such affiliated entity; provide its last known address; provide the name of its chief executive officer; and describe the state of facts giving rise to the affiliation relationship.
3. Provide a copy of the following:
- a. Corporate minutes of Nelson Galvanizing, Inc. and Nelson Foundry, Inc. from 1991 to the present;
 - b. Stock book or stock ledger of Nelson Galvanizing, Inc. and Nelson Foundry, Inc. showing all shareholders of each corporation and the amount of shares owned by each;
 - c. If either or both of Nelson Galvanizing, Inc. or Nelson Foundry, Inc. has been dissolved, provide a copy of all corporate and governmental documentation relating to the corporate dissolution; and
 - d. Each shareholder agreement covering the stock of Nelson Galvanizing, Inc. and/or Nelson Foundry, Inc. whether or not such shareholder agreements are presently in effect.
4. Describe all activity, if any, undertaken in accordance with New York Business Corporation Law Sections 1005 (Procedure After Dissolution), 1006 (Corporate Action and Survival of Remedies After Dissolution) or 1007 (Notice to Creditors; Filing or Barring Claims) by or on behalf of Nelson Galvanizing, Inc. or Nelson Foundry, Inc. following their respective dissolutions, and provide a copy of all written documents made pursuant to any such provisions of law.

OPERATIONS AT THE NELSON GALVANIZING FACILITY

5. State whether any entity, other than Nelson Galvanizing, Inc., occupied any part of the premises at 11-02 Broadway, and whether any entity, other than Nelson Galvanizing, Inc., conducted any business operation at or from 11-02 Broadway at any time since 1991. If any entity occupied any part of 11-02 Broadway or otherwise conducted business from the premises, then identify the entity and the nature of such occupancy or business. State whether such occupancy or business was pursuant to a lease or any other contract or agreement and, if pursuant to a lease or other contract or agreement, describe the terms of such lease, contract or agreement and provide a copy of the lease, contract or agreement.
6. Describe the areas of responsibility of John T. Sweeney and Robert Sweeney, between 1991 and the present time, in managing or directing the business of Nelson Galvanizing, Inc. Identify each other employee of Nelson Galvanizing, Inc. who had responsibility for managing or directing the operations of the company. If any person's responsibility changed during the time period between 1991 and the present, particularly after Nelson Galvanizing, Inc. stopped its active galvanizing operations, then your answer should address each person's responsibility in the different time periods. In responding to this question, please identify the person or person with responsibility for:
 - a. Galvanizing operations including processes that produced any wastes, including iron sulfate or spent acids;
 - b. Operations that utilized sodium hydroxide (caustic soda), zinc ammonium chloride or other zinc compounds and the management of those materials before and after their use;
 - c. Operations having to do with environmental compliance and interactions with regulatory agencies including New York City Department of Environmental Protection, New York State Department of Environmental Conservation and the United States Environmental Protection Agency;
 - d. Decisions relating to storage or disposal of wastes or cleanup of wastes; and
 - e. Decisions relating to compliance with environmental laws and regulations.
7. State the gross sales volume of Nelson Galvanizing, Inc. for each year of operation since 1991. Identify by name, address and approximate sales volume, the principal customers of Nelson Galvanizing, Inc. during each year since 1991. For each such year, identify the approximate percentage of total sales volume represented by each of the principal customers. Describe the services provided for each principal customer.
8. If Nelson Galvanizing, Inc. has ceased operations, provide the date that such operations were terminated and describe the reasons for stopping active operations.
9. Was the business of Nelson Galvanizing, Inc. or the business assets of Nelson Galvanizing, Inc. sold or transferred to any other company or entity. If so, describe the terms and conditions of such sale or transfer and identify, by name and address, the purchaser or transferee. If the business or its assets were not sold or transferred, provide your understanding of who, following cessation of the business of Nelson Galvanizing,

Inc., provided the services formerly provided by Nelson Galvanizing, Inc. to its principal customers.

10. Provide a complete listing, by name, address and title or business function, of all persons who worked for Nelson Galvanizing, Inc. between 1991 and the present.
11. If Nelson Galvanizing, Inc. has ceased business activities, identify with specificity the disposition of each of the following items:
 - a. customer records;
 - b. employee records;
 - c. other business records;
 - d. automotive and other nonprocessing equipment including trucks, automobiles, forklifts, loaders, and conveyors;
 - e. processing equipment;
 - f. office equipment including, without limitation, computers;
 - g. supplies, including usable chemicals; and
 - h. all other assets of Nelson Galvanizing, Inc.

**FINANCIAL INFORMATION FOR JOHN T. SWEENEY, NELSON GALVANIZING, INC.
AND NELSON FOUNDRY, INC.**

12. Furnish a copy of the federal income tax returns for each of Nelson Galvanizing, Inc. and Nelson Foundry, Inc. for the last five fiscal years during which it conducted business operations and for the three most recent years for which either company has filed tax returns.
13. Enclosed with this letter are two copies of "Financial Statement for Corporate Debtor." Complete one of the enclosed forms with respect to Nelson Galvanizing, Inc. and the other enclosed form with respect to Nelson Foundry, Inc.; sign the forms before a notary, where indicated; and return the completed forms and the documents requested by the forms together with your response to this letter.
14. Furnish a copy of the federal income tax return for John T. Sweeney for 1998, 1997 and 1996.
15. Enclosed with this letter is a Financial Data Request Form. Complete the enclosed Financial Data Request Form for John T. Sweeney; sign the form before a notary, where indicated; and return the completed form and the documents requested by the form together with your response to this letter.
16. Identify, for the most recent thirty-six months, each income producing activity from the property at 11-02 Broadway (including, without limitation, galvanizing operations; automobile parking, repairs or storage; or any other activity). Identify the name of the person at Nelson Galvanizing or Nelson Foundry responsible for managing the business activity and provide the name and address of the customer paying for such activity. Describe the financial arrangements for each business activity and identify the name of

the bank account where income was deposited for each activity. Provide a schedule of income and expenses for the most recent thirty-six months for each business activity at the property at 11-02 Broadway.

INSURANCE AND INDEMNITY AGREEMENTS:

17. Provide a schedule of all liability insurance policies held by Nelson Galvanizing, Inc. and Nelson Foundry, Inc., and identify all indemnification agreements to which Nelson Galvanizing, Inc. or Nelson Foundry, Inc. is a party, which might indemnify either company against liability which it may be found to have under CERCLA for releases and threatened releases of hazardous substances at and from the 11-02 Broadway facility. In response to this request, please provide not only those insurance policies and agreements which are currently in effect, but also those which were in effect at any time since 1991. The response to this question should include each insurance policy where Nelson Galvanizing, Inc. and Nelson Foundry, Inc. was the named insured, as well as each insurance policy where Nelson Galvanizing, Inc. was an additional insured on a policy where another person or entity was the named insured. The schedule of insurance policies should show: the name of the insurer, the policy number, the date such policies were in effect, the type of coverage provided by the policy, the amount of coverage, the named insured, and the name of each additional insured. Provide a copy of each insurance policy and each indemnification agreement.
18. Describe all claims made to any insurance company under any policy described in the previous question and all claims made against any other party who may have indemnified the Company under any indemnification agreement described in the previous question. Furnish a copy of all correspondence regarding each such claim. If any claim is made after the date of your response to this Request for Information, provide the answer and furnish the correspondence called for in this Request for Information at such later time as the claim is made and correspondence is generated.

OTHER:

19. State the name, title and address of each individual who assisted or was consulted in the preparation of the Company's response to this Request for Information and state whether this person has personal knowledge of the answers provided.

CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION

State of New York:

County of Queens:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information addressed to John T. Sweeney, individually, Nelson Galvanizing, Inc., and Nelson Foundry, Inc.) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that John T. Sweeney, individually, Nelson Galvanizing, Inc., and Nelson Foundry, Inc. are under a continuing obligation to supplement their response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or their response thereto should become known or available to them.

NAME (print or type)

TITLE (print or type)

SIGNATURE

Sworn to before me
this ____ day of _____, 2000

Notary Public

Nelson Galvanizing Site

1999 Action Memorandum



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

SEP 30 1999

SUBJECT: Request for a CERCLA Removal Action at the Nelson Galvanizing Site, Long Island City, Queens County, New York **ACTION MEMORANDUM**

FROM: Jeff M. Bechtel, On-Scene Coordinator
Response and Prevention Branch

A handwritten signature in cursive script, likely belonging to Bruce Sprague, is written next to the "FROM:" line.

TO: Richard L. Caspe, Director
Emergency and Remedial Response Division

Thru: Bruce Sprague, Chief
Response and Prevention Branch

A handwritten signature in cursive script, likely belonging to Bruce Sprague, is written next to the "Thru:" line.

Site ID No.: 6Z

I. PURPOSE

The purpose of this Action Memorandum is to request authorization to conduct a time-critical removal action described herein at the Nelson Galvanizing Site (Site), 11-02 Broadway, Long Island City, Queens County, New York.

On June 16, 1999, the Emergency and Remedial Response Division received a written request from the Division of Enforcement and Compliance Assistance (DECA) regarding hazardous materials at the Nelson Galvanizing Site, in Long Island City, New York asking that a removal action be considered for this Site.

On June 30, 1999, EPA conducted a removal assessment and determined that the Site met the criteria for the performance of a removal action under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as amended by 42 U.S.C. §§9601 et seq. The Site consists of an inactive galvanizing facility.

This Action Memorandum, if approved, will authorize a total project ceiling of \$810,000, with a mitigation ceiling of \$450,000. The funds are necessary to provide for site security, sampling, analysis, soil excavation and disposal of hazardous substances present at this Site.

This Site is not on the National Priorities List (NPL) and there are no nationally significant or precedent-setting issues associated with this Site.

II. SITE CONDITIONS AND BACKGROUND

A. Site Description

1. Removal Site Evaluation

The Site consists of one two-story building located in an area of mixed commercial, residential and light industry. The building is constructed of steel beams, covered with corrugated sheet metal, and is about 60 feet high. The facility is in disrepair, with walls and ceilings falling down. A commercial car leasing business is adjacent to the Site. Both businesses share a common interior wall. The facility has no security. There has been an industrial business on the Site since about 1849.

From 1967 until 1994, Nelson Galvanizing, Inc. ("NG") operated a galvanizing business at the facility. EPA believes that the facility is owned by Nelson Foundry, Inc. ("NF"). John Sweeney ("Sweeney") operated NG's business and is also believed by EPA to own both NG and NF.

The EPA removal assessment on June 30, 1999, revealed that there is stored at the Site in excess of one hundred 55-gallon drums of spent acids and caustic, along with approximately thirty smaller containers. These drums and containers, many of which are open-top, are stored without regard to compatibility. The inspection revealed that some drums of acid have a pH of less than two. In addition to the drummed acids and caustic, there are three large open-top tanks, one holding approximately 40 cubic yards of sulfuric acid sludge, one tank of sodium hydroxide with approximately 900 gallons of liquid and 1800 gallons of sludge, and one tank of zinc ammonium chloride holding approximately 900 gallons. In addition, it was observed that the business had operated on a dirt floor. Only the entrance way and approximately 70 feet into the premises is covered with concrete. Consequently, it is believed that over the years of operation, the soil has become stained and saturated from numerous chemical spills and leaks.

2. Physical Location

The Site is located in Long Island City, New York. There are single family houses in the immediate area, intermixed with commercial businesses, as well as light manufacturing. Several thousand residents and individuals live and work within ½ mile of the Site. There is public housing for approximately 8,000 people within ½ mile of the facility. The Site is within ½ mile of

the northern tip of Roosevelt Island, home to approximately 12,000 people. The Site is located within three blocks of the East River, which although not a source of drinking water, is a major ship, barge and recreational waterway.

3. Site Characteristics

A metal galvanizing facility was operated at the Site by NG from 1967 to 1994. The operation utilized, among other chemicals, acids, caustic, zinc salt, zinc metal, and fluoride-based zinc flux. This will be the second federal removal action to be conducted at this Site with the first being a responsible party cleanup under a consent order.

Within one-half mile of the Site are residential areas, light industry, commercial properties and major arterials.

4. Release or Threatened Release into the Environment of a Hazardous Substance, or Pollutant or Contaminant

The following hazardous substances have been identified at the Site:

<u>Substances Identified</u>	<u>Statutory Source for Designation as a Hazardous Substance</u>
Sulfuric Acid	CWA Section 311(b)(4)
Hydrofluoric Acid	CWA Section 311(b)(4), CAA Section 112, RCRA Section 3001
Sodium Hydroxide	CWA Section 311(b)(4)
Zinc Ammonium Chloride	CWA Section 311(b)(4)
Zinc metal	CWA Section 307(a)

CWA: Clean Water Act

CAA: Clean Air Act

RCRA: Resource Conservation and Recovery Act

These hazardous substances are acutely and chronically toxic and/or corrosive.

The potential health effects from these compounds are identified below:

Potential Health and Toxicological Effects

	Cardiovascular Damage	Respiratory Damage	Dermal Effects
Sulfuric Acid		X	X
Hydrofluoric Acid		X	X
Sodium Hydroxide		X	X
Zinc Ammonium Chloride	X	X	X
Zinc metal		X	X

The environmental effects posed by these materials include the contamination of the soil which has already been documented at the Site, and the potential for migration of the contamination into the East River.

The run-off from rain or firefighting efforts could act as a carrier to transport contaminants from the Site and into the soil, surface water and neighboring properties.

5. NPL Status

At the present time, the Site is not on the NPL and there are no efforts underway to include this Site on the NPL.

B. Other Actions to Date

1. Previous Actions

In March 1991, EPA issued an administrative order on consent (II-CERCLA-10206) ("ACO") to NG, NF and Sweeney, pursuant to which the respondents performed a removal action at the facility. The facility remained in operation while performing the removal action under EPA oversight.

Following the completion of the removal action, EPA Region 2 Division of Enforcement and Compliance Assistance ("DECA") determined that more wastes, including hazardous wastes, accumulated at this facility. In late 1994, EPA and Sweeney entered into a ("RCRA Order") consent order under RCRA requiring Sweeney to remove all solid and liquid wastes and raw materials that had accumulated since the conclusion of the CERCLA removal action. The RCRA Order required that work to be completed by 1995.

New York City Department of Environmental Protection ("NYCDEP")

Industrial Waste Unit ("IWU") conducted inspections of the facility between 1995 and 1996 and determined that the facility was inactive. NYCDEP issued an order requiring certain clean up of the facility. NYCDEP inspections determined that NG had shipped off some material and had dismantled a tank. Subsequently, NYCDEP issued a summons to Sweeney charging violations of NYC criminal law relating to the wastes at the Site.

Sweeney has claimed that neither he nor NG have the financial resources to clean up the wastes at the facility.

2. Current Actions

Since 1994, the facility has been closed and no galvanizing has occurred on this Site.

In June 1998, DECA inspected the facility and a sampling inspection was conducted in July 1998, which confirmed the presence of hazardous waste. A RCRA 3007 Information Request Letter was sent to NG on September 24, 1998 requiring a response within thirty day, but no response was received. DECA issued a Notice of Violation ("NOV") on November 6, 1998 which was not delivered because Sweeney refused to accept the letter of transmittal. On December 28, 1998 a second NOV was issued for the following violations: (1) failure to respond to an information request letter; and (2) failure to abide by the requirements of the 1994 RCRA Order. It too was not accepted and was returned to DECA. On December 30, 1998, another RCRA 3007 information request letter requesting information on a particular requirement of the RCRA Order was sent. This letter was also refused and returned. In January 1999, attempts to hand deliver all the above documents were again rebuffed by Sweeney.

In January 1999, EPA DECA again inspected the facility and determined that there were no apparent changes since July 1998.

C. State and Local Authorities' Roles

1. State and Local Actions to Date

New York City Department of Environmental Protection ("NYCDEP") Industrial Waste Unit ("IWU") conducted inspections of the facility between 1995 and 1996 and determined that the facility was inactive. NYCDEP issued an order requiring certain clean up of the facility. NYCDEP inspections determined that NG had shipped off some material and had dismantled a tank. Subsequently, NYCDEP issued a summons to Sweeney charging violations of NYC criminal law relating to the wastes at the Site.

2. Potential for Continued State/Local Response

Neither the NYSDEC, NYCDEP, nor the local government have the resources available to do the necessary removal action at the Site. These organizations will act in a supporting role throughout the removal action.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT AND STATUTORY AND REGULATORY AUTHORITIES

A. Threats to Public Health or Welfare

The release and threat of further release of hazardous substances present at the Site represent a threat to the public health and welfare as defined by Section 300.415(b)(2) of the National Contingency Plan (NCP), in that there is a high potential for releases to occur resulting in actual or potential exposure to nearby human populations; there are hazardous substances in drums and other containers that may pose a threat of release; there may be high levels of hazardous substances in soils at the Site largely at or near the surface, that may migrate; and the hazardous substances at the facility stored without regard to compatibility may present a threat of fire or explosion. Hazardous substances include substances specifically listed at Table 302.4 of the NCP and other wastes which, due to characteristics of toxicity or corrosivity are also hazardous substances. These include hydrofluoric and sulfuric acid, sodium hydroxide, zinc ammonium chloride and zinc. These materials are considered to be characteristic wastes under RCRA.

It is estimated that approximately 10,000 gallons of corrosive acids and caustic are being stored on-site in open-top drums and in large open-top tanks. In addition, the soil at the Site is contaminated and there is debris also being stored on the Site.

The Site is located at the western edge of a densely populated residential community, and is located amongst numerous other commercial industries that employ many hundreds of workers. In the event of a fire, it is anticipated that firefighters would not be able to avoid contamination from acidic runoff and toxic fumes during firefighting efforts. All runoff produced by firefighting efforts would go directly into the storm sewer and thence directly to the East River. Drums of waste chemicals and piles of debris are stacked in front of access doors, which would severely hamper firefighting efforts in the event of a fire occurring on the premises. There is also a potential for direct contact exposure through acts of vandalism or from trespassers. As the business is no longer in operation, there is direct access to the hazardous chemicals via a number of doorways and holes in the sides of the building, where interior lighting conditions are extremely poor. There are numerous holes and openings in the roof that allow rainwater to enter the premises, washing the

spilled acids and caustic onto the soils of the floor of the Site.

B. Threats to the Environment

There is also a threat of release into the environment and therefore, this Site does meet the criteria for such as described in 300.415(b)(2) of the NCP. There is obvious evidence of leakage of hazardous materials onto the soils of the floor of the Site. When open containers of liquids were tested with pH paper during EPA's preliminary assessments, the test paper indicated pH levels of less than 2, thereby meeting the corrosive characteristic as defined by RCRA. Any spilled acidic material will seep from the facility into the environment via the storm sewer system and through the groundwater. The water table in the area is approximately 8-10 feet below the surface of the ground.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from the Site, if not addressed by the response action in this Action Memorandum, may present an imminent and substantial endangerment to public health, welfare and the environment.

V. PROPOSED ACTIONS AND ESTIMATED COSTS

A. Proposed Actions

1. Proposed Action Description

The objective of the removal action is to eliminate the threat of exposure through direct human contact caused by a release of the hazardous materials at the Site. EPA will mobilize the Emergency and Rapid Response Services contractor to the Site to complete the following:

- i. Stabilization and securing of vats, sumps, drums and other containers of hazardous materials.
- ii Removal of debris.
- ii. Sampling of vats, sumps and drums.
- iii. Determination of waste characteristics for vats, sumps and drums and subsequent waste consolidation.
- iv. Preparation of waste streams for shipment.
- ii Testing of surficial soils and, if appropriate, removal of contaminated soils from the facility.

- ii Transportation and disposal of all wastes in accordance with EPA's CERCLA Off-Site Disposal Rule.

The selected mode of transportation and method of disposal will be based on the analytical data.

2. Contribution to Remedial Performance

The proposed action will contribute effectively to any long-term remedial action with respect to the release or threatened release of hazardous substances. This removal action is consistent with any future long-term remedial action that may be undertaken at the Site.

3. Description of Alternative Technologies

Alternative technologies will be considered, so long as they prove to be cost effective and efficient.

4. Engineering Evaluation/Cost Analysis

Due to the time-critical nature of this removal action, an EE/CA will not be prepared.

5. Applicable or Relevant and Appropriate Requirements (ARARs)

ARARs, within the scope of the project, including RCRA and CERCLA regulations that pertain to the disposal of hazardous wastes, will be met to the extent practicable.

6. Project Schedule

The removal action will be initiated pending approval of this Action Memorandum. Based upon previous failures to comply with the RCRA order and the orders from NYCDEP, and based upon statements by Sweeney that he lacks the financial resources to perform the action, it does not appear that the NG, NF or Sweeney would properly or promptly conduct the action nor does it appear that they have the resources to conduct the removal action. Thus it is anticipated that EPA will implement this removal action. Stabilization, over packing, material transfer, staging, segregating, sampling, soil excavation, and backfilling are expected to occur over several months, with final disposal to occur shortly thereafter.

B. Estimated Costs

1. Extramural Costs:

Proposed
Costs

Regional Allowance Costs:
(Total clean-up contractor

\$ 450,000

costs, include labor,
equipment, materials and
laboratory disposal analysis)

Other Extramural Costs not funded
from the Regional Allowance:

Total START costs, including
multiplier costs: \$ 100,000

Subtotal Extramural Costs: \$ 550,000

Extramural Costs Contingency:
(20% of subtotal, Extramural
Costs) \$ 110,000

TOTAL EXTRAMURAL COSTS:
(Rounded to nearest \$1,000) \$ 660,000

2. Intramural Costs:

Intramural Direct Costs: \$ 50,000

Intramural Indirect Costs: \$ 100,000

TOTAL INTRAMURAL COSTS: \$ 150,000

TOTAL REMOVAL PROJECT CEILING: \$ 810,000

VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED
OR NOT TAKEN

Delayed action or no action could result in the release of hazardous substances into the environment, thereby exposing the nearby residents, employees and passers by of the surrounding area to hazardous substances and causing further contamination of the soil and the environment.

VII. OUTSTANDING POLICY ISSUES

None.

VIII. ENFORCEMENT

Based upon previous failures to comply with the RCRA order and the orders from NYCDEP, and based upon statements by Sweeney that he lacks the financial resources to perform the action, it does not appear that the NG, NF or Sweeney would properly or promptly conduct the action nor does it appear that they have the

resources to conduct the removal action. Due to the nature and amount of hazardous wastes at this Site, a fund-lead time-critical removal action is necessary.

It is anticipated that EPA will be granted consensual access to the Site to conduct a removal action. Efforts will be made to identify any viable PRPs to assume responsibility for the cost of the clean-up. The On-Scene Coordinator will work with the Removal Action Branch, the Office of Regional Counsel and the NYCDEP in an attempt to locate viable PRPs to recover clean-up costs.

We presently anticipate that EPA will send notice of potential responsibility to NG, NF and Sweeney and will seek to determine, by CERCLA Section 104(e) whether any of those responsible parties have financial resources to pay for the response action. Also, we will review the ownership of the property and determine whether the filing of a CERCLA lien under Section 107(1) of CERCLA would be appropriate. We will also seek to determine whether there are any other potentially responsible parties for this action. If there are financially viable potentially responsible parties, we will recommend the initiation of a cost recovery action under CERCLA Section 107(a).

IX. RECOMMENDATION


This decision document represents authorization for the selected Removal Action at the Nelson Galvanizing Site, Long Island City, Queens County, New York, developed in accordance with CERCLA as amended and not inconsistent with the NCP. This decision is based on the Administrative Record for the Site. Conditions at the Site meet the NCP Section 300.415(b)(2) criteria for a Removal Action.

This Action Memorandum, if approved, will authorize a total project ceiling of \$810,000, with a mitigation ceiling of \$450,000. These estimated costs for this project are within the FY-99 and FY-2000 Regional Advice of Allowances.

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Please indicate your approval of the authorization of funding for the Nelson Galvanizing Site as per the current Regional redelegation of authority, by signing below.

Approved: _____


Richard L. Caspe, Director
Emergency and Remedial Response Division

Date: 9/30/99

Disapproved: _____

Richard L. Caspe, Director
Emergency and Remedial Response Division

Date: _____

cc: (after approval is obtained)

R. Caspe, 2ERRD
B. Sprague, 2ERRD-RPB
J. Daloia, 2ERRD-RPB-ERT
R. Gherardi, 2OPM-FMB
S. Murphy, 2OPM-GCMB
M. Truono, 2ERRD-RAB
J. Witkowski, 2ERRD-RAB
P. Simon, 2ORC-NYCSFB
B. Bellow, 2CD
R. Cahill, 2CD-PAT
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B. Dease, 2ERRD-RPB-TSS
C. Kelley, START
A. Raddant, USDOJ